



STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2012-48

Legistar #: 20121180

Board of Zoning Appeals Hearing: Monday, December 17, 2012 – 6:00 p.m.

Property Owner/Applicant: David R. Wilkins
D and N Investors, LLC
48 Franklin Court
Dallas, GA 30132

Address: 1394 Cobb Industrial Way

Land Lot: 09260 District: 16 Parcel: 0060

Council Ward: 5 Existing Zoning: HI (Heavy Industrial)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to reduce the front yard setback from 50 ft. to 34 ft. [Sect. 708.27(H)]
2. Variance to reduce the rear yard setback from 40 ft. to 18 ft. [Sect. 708.27(H)]
3. Variance to reduce the side yard setback from 20 ft. to 9 ft. [Sect. 708.27(H)]
4. Variance to allow metal façade along building facing roadway. [Sect. 708.27(G.2)]

Statement of Fact

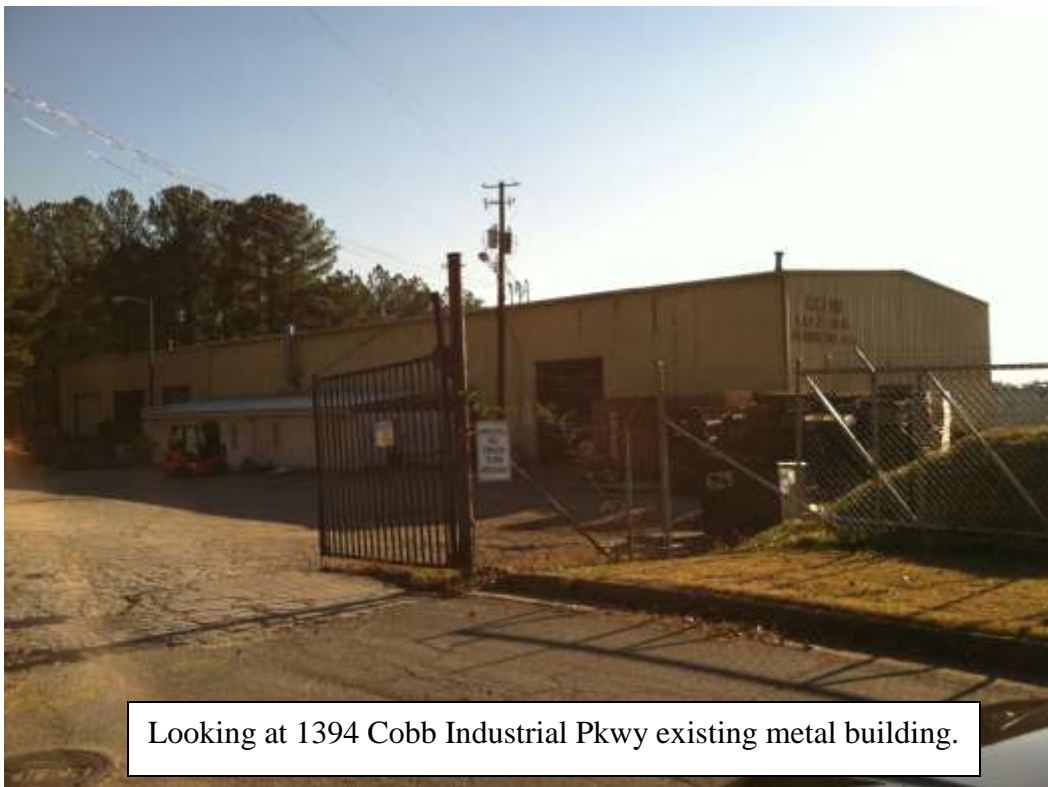
As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.

2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



Looking at 1394 Cobb Industrial Pkwy existing metal building.







Recommended Action:

Approve 3 of 4 variances. The owner and applicant, David Wilkins, is requesting variances to allow the construction of a 2,450 square foot addition onto the existing building on the property. The subject property is zoned HI (Heavy Industrial) and is identified as 1394 Cobb Industrial Way. The property is located in the Cobb Marietta Industrial Park where the surrounding properties are zoned HI (Heavy Industrial) and there are other properties located in the industrial park that are zoned LI (Light Industrial).

The proposed 2,450 square foot addition would be added along the western side of the existing metal building. However, the existing 13,932 square foot building currently encroaches into the rear yard setback, and as such, a variance to reduce the rear yard setback from 40 ft. to 18 ft. is needed to comply with the current regulations.

The variances necessary to build the proposed addition are: (1) reduction of the side yard setback from 20 ft. to 9 ft. where the building addition would encroach into the setback along the western property boundary; (2) reduction of the front yard setback from 50 ft. to 34 ft. where the building addition would encroach into the front yard setback; and (3) allow a metal façade along the front of the building, instead of those materials required by Section 708.27(G), and consisting of brick, stone, rock, or wood.

The property is in an unusual situation, as Cobb Industrial Way dead-ends into the property and the building does not technically front the property, although the 50 ft. front setback would be measured from the corner pin at the southeastern point of the right of way. As such, a variance from the front yard setback from 50 ft. to 34 ft. from of the right of way to the northwest corner of the building addition would be necessary.

In addition, the property owner also owns the parcel (1392 Cobb Industrial Way) abutting the west side of the subject property. Staff notified the applicant that he could prepare an exemption plat to combine the two parcels, which would create one parcel that would meet most regulations and would eliminate the need for the side setback variance.

According to the City Code, and as shown on the submitted site plan, the abutting parcel is considered a non-conforming lot because the minimum lot size is 21,900 sq. ft., which is less than the required 40,000 sf. for an HI (Heavy Industrial) zoned parcel. According to Section 706.04(C), two or more lots with continuous frontage in single ownership shall be considered to be an undivided parcel, therefore joining the lots to be one, thus minimizing a non-conforming industrial lot.

If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this article, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purpose of this article, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this article, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this article.



The applicant has not submitted an exemption plat at this time, and intends to maintain the current configuration of the two parcels, and to seek the proposed variances, including the request to reduce the setback from 20 ft. to 9 ft.

On May 22, 2006, a previous property owner requested similar variance requests for this property, which were approved. The variances approved at that time were:

1. Variance to reduce the required side minor setback from 20 feet to 5 feet.
2. Variance to reduce the required rear setback from 40 feet to 25 feet.

However, it does not appear that the property owner in 2006 owned the adjacent parcel.

Staff recommends approval of variance requests for numbers 1, 2 and 4. Staff recommends denial of the request for variance number 3, and recommends that the property owner combine the two abutting parcels into one through the exemption plat process.